BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

KATHRYN SANDERS Claimant)
VS.))) Docket No. 199,682
MONTGOMERY WARD Respondent) DOCKET NO. 199,002
AND	
SEDGWICK JAMES Insurance Carrier	

ORDER

The respondent and insurance carrier request review of the Preliminary Hearing Order of Administrative Law Judge Shannon S. Krysl entered in this proceeding on September 5, 1995.

ISSUES

The Administrative Law Judge ordered the respondent to provide a list of three (3) physicians from which claimant would select a treating physician. The issue before the Administrative Law Judge was whether claimant's carpal tunnel syndrome developed as a result of personal injury by accident arising out of and in the course of her employment with the respondent. That is the sole issue now before the Appeals Board.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for purposes of preliminary hearing the Appeals Board finds as follows:

The Preliminary Hearing Order of the Administrative Law Judge should be affirmed. The Appeals Board agrees with the analysis of the Administrative Law Judge as set forth in the transcript of the Preliminary Hearing held on September 5, 1995. The Appeals Board agrees that the history taken by Dr. Ernest R. Schlachter appears to be the most accurate with the histories recorded by Doctors Lucas and Mills being inaccurate or incomplete. The Administrative Law Judge had the opportunity to observe claimant testify

IT IS SO ORDERED.

and assess her demeanor and credibility. The Appeals Board, therefore, gives some deference to her findings in that regard.

Although the respondent raised the issue of timely notice in its application for review and mentioned the issue in its brief, the Appeals Board declines to address the issue because it was not raised before the Administrative Law Judge.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge Shannon S. Krysl, entered in this proceeding on September 5, 1995, should be, and hereby is, affirmed.

Dated this day of January 1996.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

c: Robert R. Lee, Wichita, Kansas Larry Shoaf, Wichita, Kansas Shannon S. Krysl, Administrative Law Judge Philip S. Harness, Director